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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2008-0562; Directorate Identifier 2008-NM-010-AD; Amendment 39-15658; AD 2008-18-01]

RIN 2120-AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 170 and ERJ 190 Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

> It has been found cases where the pressure equalization valve was not installed in the left-hand bulkhead blowout panel, on the forward and/or aft cargo compartments, thus affecting the effectiveness of fire detection, containment and suppression.

We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective October 14, 2008.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of October 14, 2008.

ADDRESSES: You may examine the AD docket on the Internet at http://www.regulations.gov or in person at the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Kenny Kaulia, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-2848; fax (425) 227-1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the Federal Register on May 20, 2008 (73 FR 29085). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> It has been found cases where the pressure equalization valve was not installed in the left-hand bulkhead blowout panel, on the forward and/or aft cargo compartments, thus affecting the effectiveness of fire detection, containment and suppression.

Corrective actions include inspecting for the presence of pressure equalization valves and, if necessary, installing pressure equalization valves. You may obtain further information by examining the MCAI in the AD docket.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed.

Differences Between This AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have required different actions in this AD from those in the MCAI in order to follow our FAA policies. Any such differences are highlighted in a NOTE within the AD.

Costs of Compliance

We estimate that this AD will affect about 101 products of U.S. registry. We also estimate that it will take about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $8,080, or $80 per product.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and

procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this AD:

1. Is not a "significant regulatory action" under Executive Order 12866;

2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

Examining the AD Docket

You may examine the AD docket on the Internet at http://www.regulations.gov; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647-5527) is in the ADDRESSES section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39–AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new AD:

2008-18-01 Empresa Brasileira de Aeronautica S.A. (EMBRAER): Amendment 39-15658. Docket No. FAA-2008-0562; Directorate Identifier 2008-NM-010-AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective October 14, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to EMBRAER Model ERJ 170-100 LR, -100 STD, -100 SE, -100 SU, -200 LR, -200 STD, and -200 SU airplanes, having serial numbers (S/N) 17000002, 17000004 through 17000013, and 17000015 through 17000154; and Model ERJ 190-100 STD, -100 LR, -100 IGW, -100 ECJ, -200 STD, -200 LR, and -200 IGW airplanes, having S/N 19000002, 19000004, and 19000006 through 19000060; certificated in any category.

Subject

(d) Air Transport Association (ATA) of America Code 21: Air Conditioning.

Reason

(e) The mandatory continuing airworthiness information (MCAI) states:

> It has been found cases where the pressure equalization valve was not installed in the left-hand bulkhead blowout panel, on the forward and/or aft cargo compartments, thus affecting the effectiveness of fire detection, containment and suppression.

Corrective actions include inspecting for the presence of pressure equalization valves and, if necessary, installing pressure equalization valves.

Actions and Compliance

(f) Unless already done, do the following actions.

(1) Within 500 flight hours after the effective date of this AD, perform a general visual inspection on the left-hand bulkhead blowout panel of both the forward and aft cargo compartments to determine whether the pressure equalization valves, part number (P/N) 120-48865-003, are installed. If both pressure equalization valves are installed in their respective blowout panels, no additional action is required by this AD.

(2) If any valve is not installed, within 700 flight hours after the effective date of this AD, install valve P/N 120-48865-003, in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 170-21-0032 or 190-21-0019, both dated August 10, 2007; as applicable.

Note 1: For the purpose of this AD, a general visual inspection (GVI) is: "A visual examination of an interior or exterior area, installation or assembly to detect obvious damage, failure or irregularity. This level of inspection is made from within touching distance, unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight or drop-light, and may require removal or opening of access panels or doors. Stands, ladders or platforms may be required to gain proximity to the area being checked."

FAA AD Differences

Note 2: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

(g) The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Kenny Kaulia, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-2848; fax (425) 227-1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) Airworthy Product: For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) Reporting Requirements: For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120-0056.

Related Information

(h) Refer to MCAI Brazilian Airworthiness Directives 2007-11-01 and 2007-11-02, both effective December 12, 2007; and EMBRAER Service Bulletins 170-21-0032 and 190-21-0019, both dated August 10, 2007; for related information.

Material Incorporated by Reference

(i) You must use EMBRAER Service Bulletin 170-21-0032, dated August 10, 2007; or EMBRAER Service Bulletin 190-21-0019, dated August 10, 2007; as applicable; to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343–CEP 12.225, Sao Jose dos Campos–SP, Brazil.

(3) You may review copies at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741-6030, or go to: http://www.archives.gov/federal-register/cfr/ibr-locations.html.

Issued in Renton, Washington, on August 18, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8-19850 Filed 9-5-08; 8:45 am]